

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YOVANNY DOMINGUEZ and on behalf of all
other persons similarly situated,

Plaintiff,

-v-

OLD NAVY, LLC,

Defendant.

19 Civ. 10165 (PAE) (SLC)

ORDER

PAUL A. ENGELMAYER, District Judge:

On January 27, 2020, defendant Old Navy moved to dismiss plaintiff Yovanny Dominguez's initial complaint in this case. Dkt. 13. On January 28, 2020, the Court referred the motion to the Honorable Sarah L. Cave, Magistrate Judge, for a report and recommendation. Dkt. 15. On February 11, 2020, Dominguez filed an amended complaint. Dkt. 16. On March 10, 2020, Old Navy moved to dismiss Dominguez's amended complaint. Dkt. 21.

The amended complaint alleges violations of the Americans with Disabilities Act for the failure of Old Navy to accommodate legally blind individuals in the purveyance of gift cards. On March 20, 2020, Judge Cave stayed the case in light of similar pending cases in this District and the Eastern District of New York. Dkt. 26. That stay expired on August 4, 2020. *See id.* Similar motions to dismiss raising the same arguments are currently pending on appeal before the Second Circuit in *Dominguez v. Banana Republic, LLC*, No. 20-1559, and five related cases. These cases are on the Second Circuit's expedited appellate calendar. *See, e.g.*, No. 20-1559, Dkt. 26. On August 7, 2020, the parties asked that the stay be extended through resolution of those appeals. Dkt. 31.

The *Banana Republic* decision will almost certainly occasion significant re-briefing of Old Navy's pending motion, if not the resolution of this litigation. Accordingly, the Court administratively terminates Old Navy's motion to dismiss, without prejudice to its ability to refile its motion subsequent to the Circuit's decision in *Banana Republic* or its related cases.¹ The Court further stays all proceedings in this case pending a decision in *Banana Republic* or the related cases.

The Clerk of Court is respectfully directed to terminate the motions pending at docket 21.

SO ORDERED.

A handwritten signature in blue ink that reads "Paul A. Engelmayer". The signature is written in a cursive, flowing style.

PAUL A. ENGELMAYER
United States District Judge

Dated: August 7, 2020
New York, New York

¹ For the avoidance of doubt, this Order does not impact any other dates and deadlines in this case.